



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation on February 20, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST 2004-16899

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **US Airways, Inc.** filed **1/9/2004** for:

XX Exemption for two years under 49 U.S.C. §40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between
Orlando, Florida, and Hamilton, Bermuda.**

In its application, US Airways states that that, under U.S. Route 4 of the U.S.-U.K. Air Services Agreement, U.S. carriers may serve Bermuda from several designated U.S. points. It asks that the U.S. Government substitute Orlando as an available U.S. gateway in place of one of several long-dormant U.S. gateways on the Route, stating that the dormant U.S. gateways are currently providing no public benefits. US Airways states that it proposes to commence its proposed Orlando-Bermuda service in May, 2004, using A-319 aircraft, and to conduct these operations on a seasonal basis.

On January 26, 2004, United Air Lines, Inc. filed an answer to the application. United states that it does not object to US Airways' request *per se*, but does oppose any request by the United States to substitute Orlando for the current Chicago gateway.

Applicant rep: **Howard Kass, (703) 872-7000** DOT Analyst: **George Wellington**
(202) 366-2391

DISPOSITION

XX Granted, subject to conditions (See below).

The action above was effective when taken: February 20, 2004 through February 20, 2006.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX Grant of authority is based on comity and reciprocity with the United Kingdom

(see remarks below).

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificates of public convenience and necessity

XX Standard Exemption Conditions (attached)

¹ The U.S. gateways not currently receiving U.S. carrier service on U.S. Route 4 are Chicago, Detroit, and Miami.

Remarks: We are granting this authority on an extrabilateral basis, in view of an Exchange of Letters between representatives of the United States and the United Kingdom.² In that Exchange of Letters, the U.K. authorities indicated their willingness to permit US Airways to conduct the services authorized here on the basis of comity and reciprocity, in addition to those rights available to the United States under U.S. Route 4 of the U.S.-U.K. Agreement, and the U.S. authorities stated that they were prepared to allow a U.K.-designated carrier to operate between Bermuda and a U.S. gateway selected by the Government of the United Kingdom in addition to those rights available to the United Kingdom under U.K. Route 8 of that Agreement.³

In light of the intergovernmental exchange noted above, we need not address US Airways' request that we substitute Orlando for an existing U.S. gateway on U.S. Route 4 of the Agreement.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the application was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

http://dms.dot.gov/reports_aviation.asp

² See January 30, 2004, letter from the British Embassy to the Department of State, and the February 9, 2004, response. Copies of these letters have been placed in Docket OST 2004-16899.

³ On February 5, 2004, US Airways filed an application in Dockets OST 2001-11152 and OST 1996-1839 to renew certain exemption authorities. In that application, US Airways asked that we

consolidate a number of proceedings, including the Orlando-Bermuda proceeding before us here, into a single Docket, with a common expiration date for the authorities involved. We will act on this request of US Airways at a later date.

APPENDIX

U.S. Carrier Standard Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

8/2003